

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

RAY GRIFFIN

**ADMINISTRATIVE CONSENT
ORDER**

NO. 2008-SW-09-A1

NO. 2008-WW-14-A1

**TO: Ray Griffin
Landfill Manager
SEMCO
29997 HWY 78
Richland IA 52585**

I. SUMMARY

This administrative order (Order) is issued to Ray Griffin, Landfill Manager of the Southeast Iowa Multi-County Solid Waste Agency (SEMCO), to address violations at the SEMCO landfill. Pursuant to this Order, Ray Griffin shall pay an administrative penalty of \$10,000, with \$7,500 of this penalty to be satisfied through a donation to the Washington County Conservation Board, and otherwise comply with the terms set forth below.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Kurt Levetzow
Field Office #6
Iowa Department of Natural Resources
1023 W. Madison
Washington, Iowa 52353-1623
Ph: 319-653-2135

Relating to this Order to:

Jon C. Tack, Attorney
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515-281-8889

II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.175(1) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1 (water quality) and the rules promulgated or permits issued pursuant thereto; Iowa Code section 455B.307(2) which authorizes the

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
RAY GRIFFIN**

Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste) and the rules adopted pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Ray Griffin is the landfill manager for SEMCO. SEMCO is an agency established pursuant to Chapter 28E of the Code of Iowa. Members of SEMCO include Keokuk, Jefferson, and Washington Counties. SEMCO operates a municipal solid waste landfill in sections 28 and 29 of Township 74 N, Range 10 W, in Keokuk County, Iowa pursuant to Department permit no. 54-SDP-01-75P issued on June 8, 2007. Leachate from the SEMCO landfill is collected and hauled to the City of Fairfield's wastewater treatment facility.

2. In 2006, SEMCO constructed a new MSWLF cell and leachate collection system. SEMCO began filling the cell in November of 2006.

3. On April 26, 2007, Ray Griffin contacted the Department in regard to allowable discharges from the leachate lagoon.

4. On December 21, 2007, SEMCO applied for an NPDES permit to discharge from the leachate lagoon.

5. On January 30, 2008, the Department notified SEMCO by letter that the NPDES permit could not be authorized because of the characteristics of the proposed discharge. The Department recommended the withdrawal of the permit application. The letter was received on February 7, 2008.

6. On February 8, 2008, the Department received a complaint alleging that SEMCO was pumping from the leachate lagoon on the landfill property and onto neighboring land.

7. The Department conducted an investigation at the SEMCO landfill on February 8, 2008. A 2 inch hose was observed to be discharging from the leachate lagoon onto the ground at the landfill. The discharge was running across a portion of the old unlined landfill and onto the bordering state-owned land. The discharge traveled approximately 60 yards before crossing property lines. At the property line, silt deposition was quite obvious in the snow. Snow cover appeared to be preventing the discharge from reaching Richland Creek. Samples were collected. During the inspection, the Department spoke with Brett Slaubaugh, an employee of Rinehart Construction. Rinehart Construction is the contract operator of the site. Mr. Slaubaugh stated that illegal discharges from the leachate lagoon had been a routine occurrence at the site in 2007. Mr. Slaubaugh stated that Landfill Manager Ray Griffin routinely pumped from the storage lagoon and allowed

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
RAY GRIFFIN**

it to run off of the property. Mr. Slaubaugh provided photographs of the illegal activities and written logs documenting the illegal discharges.

8. On February 13, 2008, the samples collected at the SEMCO landfill on February 8th were analyzed by the University of Iowa Hygienic Laboratory. The tests confirmed that the liquid being pumped from the site came from the leachate lagoon.

5. Based upon the allegations of the illegal discharge by SEMCO, the Department analyzed the records of leachate disposal from SEMCO for calendar year 2007. It is the Department's determination that approximately 1,000,000 gallons of leachate are unaccounted for at the SEMCO landfill. Based upon the Department's own observation of illegal discharge and the discharges reported by Mr. Slaubaugh, the Department has concluded that approximately 1,00,000 gallons were illegally discharged by SEMCO in 2007.

6. On April 23, 2008, the Department conducted a follow-up inspection at the SEMCO landfill. It was observed on that date that leachate was being recirculated within the newly lined cell. Leachate was seeping out of the cell, around the leachate lagoon, into the stormwater sedimentation basin, and into a small tributary that feeds into Richland Creek. Photographs were taken documenting the leachate release. It was also observed that the leachate lagoon did not have seven days of leachate storage space remaining as required by the SEMCO permit.

7. On August 8, 2008, the Department observed that the leachate lagoon had overflowed and discharged.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and disposal of solid waste. The Commission has adopted such rules at 567 IAC chapters 100-123.

2. The Commission has adopted 567 IAC chapter 113 for the regulation of a municipal solid waste landfill (MSWLF).

3. Pursuant to Special Provision 8(a) of Permit #54-SDP-01-75P, SEMCO may only discharge from the leachate lagoon if authorized by an NPDES permit. In this case, no NPDES permit has been issued to discharge and therefore, pursuant to Special Provision 8(a), the leachate must be delivered to a publicly owned treatment works in Fairfield, Iowa. The above-stated facts establish violations of this permit condition.

4. Pursuant to Special Provision 9 of Permit #54-SDP-01-75P, SEMCO is authorized to recirculate leachate at the site, subject to the following conditions:

a. Leachate application is restricted to only those areas under which an approved

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
RAY GRIFFIN**

leachate control piping and liner system is in place.

b. Leachate shall be applied only during hours of operation and when an operator is on duty.

c. Leachate shall be applied in a manner such that ponding or runoff will not occur.

d. Leachate recirculation shall be controlled such that not more than one foot of leachate head will be allowed to accumulate above the landfill liner.

e. Seven days leachate storage must be maintained at all times. The fill areas shall not be used for flow equalization.

f. Records shall be maintained as to the time and quantities of leachate application and be submitted with the facility Annual Leachate Control System Performance Evaluation Report (LCSPER).

g. A means of frost protection must be provided for all leachate control elements. Leachate head shall be measured semiannually with the measurements reported in the LCSPER.

h. Well logs and construction documentation forms for leachate piezometers shall be submitted within 30 days of installation.

i. Leachate recirculation shall be immediately terminated if it is causing ponding, runoff, excessive odor, vector control problems, vapor drift, ice formation, or operational problems. Field Office #6 shall be immediately notified at (319) 653-2135 if any of the above events occur.

j. In accordance with 567 IAC 113.26(11)"d", the Department shall be notified and the site inspected when the initial construction of each leachate recirculation trench has been completed. Prior to the inspection, construction certification reports shall be submitted to the Department's Main and local Field offices.¹

The above-stated facts disclose violations of subparagraphs a, b, c, d, e, f, and i.

5. Pursuant to 567 IAC 113.8(2)"h", the leachate recirculation system shall not contaminate waters of the state, contribute to erosion, damage cover material, harm vegetation, or spray persons at the MSWLF facility. The above-stated facts disclose violations of this provision.

6. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. The above-stated facts establish a violation of this section.

7. Iowa Code section 455B.173(3) requires the Commission to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems. The Commission has done so at 567 IAC chapters 60 through 69. Subrule 64.3(1) prohibits the operation of a

¹ The rule referenced in this provision has been replaced by current rule 113.4(6) which requires: The department shall be notified when the construction of a new facility or MSWLF unit or significant components thereof have been completed so that the department may inspect the facility to determine if the project has been constructed in accordance with the design approved by the department. The department shall inspect and approve a new facility or MSWLF unit before MSW may be accepted. The department shall inspect a facility and its operations on a regular basis to determine if the facility is in compliance with this chapter.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
RAY GRIFFIN**

waste disposal system without or contrary to the terms of a permit. The above-stated facts establish violations of this rule.

8. Pursuant to 567 IAC 113.8(2), leachate seeps shall not be allowed to reach waters of the state. The above facts disclose violations of this provision.

V. ORDER

The Department hereby orders and Ray Griffin agrees to the following:

1. Ray Griffin is assessed an administrative penalty in the amount of \$10,000. This administrative penalty shall be satisfied by the payment of \$2,500 to the Department at the time of execution of this Order and the payment of \$7,500 to the Washington County Conservation Board at the time of execution of this Order for use in Supplemental Environmental Projects (SEPs) pursuant to the contract between the Department and the Washington County Conservation Board.
2. Ray Griffin agrees to voluntarily relinquish his MSWLF operator certification and does so relinquish the certification by the execution of this Order.

VI. PENALTY

1. Iowa Code section 455B.307(3) provides for civil penalties of up to \$5,000 per day for solid waste violations. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the water quality violations involved in this matter. Criminal sanctions are also provided for discharge violations.
2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC chapter 10.
 - a. Economic Benefit. SEMCO has achieved an economic benefit by illegally discharging leachate from the landfill. However, it is not clear that Ray Griffin in his role as the landfill manager has achieved any economic benefit. Therefore no penalty is assessed for this factor.
 - b. Gravity of the Violation. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. The regulations violated by Ray Griffin are designed to protect the surface water of the state. Direct discharges from a leachate lagoon at a landfill create a significant risk of the violation of water quality standards. Water quality standards are designed to protect aquatic life. Repeated discharges from a leachate lagoon create a risk

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
RAY GRIFFIN**

of chronic impacts to aquatic life. Based upon these facts and the multiple days of violation, \$5,000 is assessed for this factor.


c. Culpability. The maintenance of a leachate lagoon, including the emptying thereof, is a routine part of the normal operation of a MSWLF. The intentional discharge from a leachate lagoon violates solid waste and waste water regulations and the sanitary disposal project permit for this facility. Ray Griffin was a certified landfill operator and is experienced in the operation of a landfill. The violations documented in this Order were repeated. Some of the discharges occurred after a permit had been requested to discharge, showing knowledge of the permit requirement during this period. Based upon these facts and the multiple days of violation, \$5,000 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This Order is entered into knowingly by and with the consent of Ray Griffin. For that reason, Ray Griffin waives the right to appeal this administrative consent order or any part thereof.


VIII. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative penalties or referral to the Attorney General to obtain appropriate relief pursuant to Iowa Code sections 455B.146, 455B.191 and 455B.307. Compliance with provision "V. Order" of this Order constitutes full satisfaction of all requirements pertaining to the violations described in Divisions III and IV of this Order. The Department reserves the right to bring enforcement action or to request that the Attorney General initiate legal action to address other violations not described in this Order but which may arise from the facts summarized in Division III of this Order.



RICHARD A. LEOPOLD
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 6 day of
Nov., 2008



RAY GRIFFIN

Dated this 30 day of
October, 2008